

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:14-CR-00128-H-1

UNITED STATES OF AMERICA

v.

CLEO BRIAN AUTRY

UNOPPOSED
MOTION TO AMEND
CONDITIONS OF RELEASE
PENDING SENTENCING

The Defendant, Cleo Brian Autry (“Mr. Autry”), by and through undersigned counsel, hereby moves this Court, pursuant to 18 U.S.C. § 3145(a)(2), to amend the conditions of his release pending sentencing set forth in the Order Setting Conditions of Release signed by Magistrate Judge Robert B. Jones, Jr. on July 1, 2014, D.E. 13. In support of this request, Mr. Autry states the following:

1. The Defendant was named in a two-count indictment filed in the Eastern District of North Carolina on June 25, 2014, charging him with: (i) conspiring to commit offenses against the United States, in violation of 18 U.S.C. § 371; and (ii) theft of government property and aiding abetting the same, in violation of 18 U.S.C. §§ 641 and 2.
2. Mr. Autry was arrested for these charges on June 30, 2014 and had his initial appearance in this district the next day before Magistrate Judge Jones in Wilmington, North Carolina. *See* D.E. 12.
3. At the conclusion of that initial appearance, the Court ordered that Mr. Autry be released pending his trial in this case on a number of conditions. *See id.* Those conditions of release are set forth in detail at D.E. 13.

4. Then, on October 6, 2014, Mr. Autry, pursuant to a written agreement with the government, entered pleas of guilty to the two counts of the indictment filed against him on June 25, 2014. *See* D.E. 38.
5. At the conclusion of his arraignment on those charges on October 6, 2014 in Greenville, North Carolina, Magistrate Judge Kimberly A. Swank ordered Mr. Autry to be released pending sentencing on the same conditions originally imposed upon him by Magistrate Judge Jones at D.E. 13.
6. To this day, February 15, 2018, Mr. Autry has been subject to those conditions and has remained in total compliance with them.
7. Among the various conditions Mr. Autry is subject to is a travel restriction. Specifically, Mr. Autry must currently “[r]emain in the Eastern District of North Carolina and not travel outside the district without prior approval from the supervising officer.” D.E. 13 at 2.
8. This restriction has made it difficult for Mr. Autry to see out-of-state family members he would like to visit while this case remains pending.¹ As such, Mr. Autry now asks this Court to amend his conditions of release by removing the travel restriction to which he is currently subjected.
9. Title 18 U.S.C. § 3145(a)(2) provides that “[i]f a person is ordered released by a magistrate judge, . . . the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of

¹ Just two days ago, the government filed another motion for the sentencing hearing in this matter to be continued, to which Mr. Autry has no objection. *See* D.E. 317. As discussed in that motion, it is not clear exactly when Mr. Autry’s sentencing in this matter will occur.

release.” It further provides that “[t]he motion shall be determined promptly.”

Id.

10. Pursuant to § 3145(a)(2), Mr. Autry now moves this Court to remove his travel restriction condition to allow him to physically travel anywhere in the United States.

11. Both Assistant United States Attorney Susan B. Menzer and United States Probation Officer Mark Culp, who is currently supervising Mr. Autry, have been contacted regarding this requested amendment, and neither has an objection to the relief requested herein.

As such, pursuant to 18 U.S.C. § 3145(a)(2), Mr. Autry respectfully asks this Court to amend the Order Setting Conditions of Release at D.E. 13 to eliminate the travel restriction condition and thus allow for travel anywhere in the United States. He does not currently seek amendment to any other condition listed in the release order, and he understands that he must continue to abide by all other conditions listed therein, or else be subject to the penalties and sanctions discussed on page 3 of the release order.

Respectfully requested this 15th day of February, 2018.

LOUIS C. ALLEN
Acting Federal Public Defender

/s/ **Marshall H. Ellis**

MARSHALL H. ELLIS

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LR 57.1 Counsel Appointed

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served upon:

SUSAN B. MENZER
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by electronically filing the foregoing with the Clerk of Court on February 15, 2018, using the CM/ECF system which will send notification of such filing to the above.

This the 15th day of February, 2018.

/s/ Marshall H. Ellis
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